## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:10-CV-425-D

| PAUL L. LONG,                    | ) |       |
|----------------------------------|---|-------|
| Plaintiff,                       | ) |       |
| v.                               | ) | ORDER |
| MICHAEL J. ASTRUE,               | ) |       |
| Commissioner of Social Security, | ) |       |
| Defendant.                       | ) |       |

On August 12, 2011, Magistrate Judge Webb issued a Memorandum and Recommendation ("M&R") [D.E. 20]. In that M&R, Judge Webb recommended that the court deny plaintiff's motion for judgment on the pleadings [D.E. 37], grant defendant's motion for judgment on the pleadings [D.E. 39], and affirm the final decision of defendant. On August 26, 2011, plaintiff filed objections to the M&R [D.E. 43]. On September 9, 2011, defendant responded [D.E. 44] to plaintiff's objections.

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection is made." <u>Diamond v. Colonial Life & Accident Ins. Co.</u>, 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (emphasis removed) (quotation omitted); <u>see</u> 28 U.S.C. § 636(b). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." <u>Diamond</u>, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and plaintiff's objections. As for those portions of the M&R to which plaintiff made no objection, the court is satisfied that there is no clear error on the face of the record.

The court has reviewed de novo the portions of the M&R to which plaintiff objected. The

scope of judicial review of a final decision regarding disability benefits under the Social Security

Act, 42 U.S.C. § 405(g), is limited to determining whether substantial evidence supports the

Commissioner's factual findings and whether the Commissioner applied the correct legal standards.

See, e.g., Walls v. Barnhart, 296 F.3d 287, 290 (4th Cir. 2002); Hays v. Sullivan, 907 F.2d 1453,

1456 (4th Cir. 1990). Substantial evidence is "evidence which a reasoning mind would accept as

sufficient to support a particular conclusion. It consists of more than a mere scintilla of evidence

but may be somewhat less than a preponderance." Laws v. Celebrezze, 368 F.2d 640, 642 (4th Cir.

1966). This court may not reweigh the evidence or substitute its judgment for that of the

Commissioner. See, e.g., Hays, 907 F.2d at 1456. Rather, in determining whether substantial

evidence supports the Commissioner's decision, the court's review is limited to whether the

Administrative Law Judge ("ALJ") analyzed the relevant evidence and sufficiently explained his

findings and rationale concerning the evidence. See, e.g., Sterling Smokeless Coal Co. v. Akers,

131 F.3d 438, 439-40 (4th Cir. 1997).

This court agrees with Judge Webb's thorough analysis and adopts it as its own. Plaintiff's

objections lack merit and are overruled.

In sum, the court adopts the M&R [D.E. 42]. Plaintiff's motion for judgment on the

pleadings [D.E. 37] is DENIED, defendant's motion for judgment on the pleadings [D.E. 39] is

GRANTED, and defendant's final decision is AFFIRMED.

SO ORDERED. This 4 day of September 2011.

IAMES C. DEVER III

United States District Judge